



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 03920-99

3 February 2000

SGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Sergeant [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by Headquarters Marine Corps, dated 23 August 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The Board noted you state all the Marines involved received a service record page 11 counseling entry, so they found you were treated no worse than the others; in fact, your treatment was better, as you were the only one who did not receive a letter of reprimand. Further, if the intent of the commanding general were, as you imply, that those involved were not to receive page 11 entries, the Board found it unlikely that officer would have permitted the page 11 entries, issued at a lower level of the command, to stand. In this connection, they noted you had provided nothing to support your assertion as to what the commanding general actually said about what actions should or should not be taken. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this

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regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

3920-99

IN REPLY REFER TO:

1070
MI
23 Aug 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF SERGEANT [REDACTED]
[REDACTED] 043 USMC

1. We reviewed Sergeant [REDACTED] application concerning his request for removal of the Administrative Remarks page 11 entry dated 980622 from his service record.
2. MCO P1070.12H, Marine Corps Individual Records Administration Manual (IRAM), authorizes commanders to make entries on page 11 which are considered matters forming an essential and permanent part of a Marine's military history, which are not recorded elsewhere in the Service Record Book or the Marine's automated record and will be useful to future commanders.
3. The following comments concerning the page 11 entry dated 980622 are provided:
 - a. The counseling entry meets the elements of proper page 11 counseling in that it lists specific deficiencies and recommendations for corrective action per the IRAM. Sergeant [REDACTED] acknowledged the counseling entry by his signature and further declined to make a statement in rebuttal. (It is noted that Sergeant [REDACTED] did not refute the substance of the page 11 entry in his BCNR request.)
 - b. Sergeant [REDACTED] states that the page 11 entry dated 980622 was based upon NJP that was set aside as baseless and therefore any documentation related to such incident is unjust. Telephone contact with Gunnery Sergeant [REDACTED] (DSN: 567-5270), Legal Chief assigned at Sergeant [REDACTED] present duty station on 16 August 1999, revealed that Sergeant [REDACTED] was not the subject of NJP for this incident.
 - c. Sergeant [REDACTED] believes his record to be in error or unjust is based upon administrative actions awarded to the other participating members involved in this incident who were subjects of NJP. NJP for those members was set aside as baseless and letters of reprimand were awarded in lieu of.

Subj: BCNR APPLICATION IN THE CASE OF SERGEANT [REDACTED]
[REDACTED] USMC

4. While NJP was set aside for the other participating members, it is irrelevant in this case. Letters of reprimand were issued to all participating members for violations of the Uniform Code of Military Justice except for Sergeant [REDACTED]. He should consider himself fortuitous. The incident for which the page 11 entry was made, participated in an inappropriate promotion ceremony, still occurred.

5. In view of the above, it is recommended that Sergeant [REDACTED] request for removal of the page 11 counseling entry dated 980622 be disapproved.

[REDACTED]
Head, Manpower Information Systems
Field Support Branch
Manpower Management Information
System Division
By direction of the
Commandant of the Marine Corps